



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: September 14, 2022  
MOAHR Docket No.: 22-003481  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held on September 8, 2022 via teleconference. Petitioner appeared and represented herself. Tamika Harris, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of FAP benefits.
2. On July 13, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits at a rate of \$20.00 per month for a household of one (Exhibit A, p. 19). The FAP benefit rate was based on [REDACTED] in earned income and \$475.00 in housing costs.
3. On August 11, 2022, Petitioner filed a Request for Hearing to dispute MDHHS' calculation of her FAP benefit rate (Exhibit A, pp. 3-5).

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference

Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner filed a Request for Hearing to dispute MDHHS' determination of her FAP benefit rate. Petitioner also expressed her confusion regarding why she was receiving two separate amounts on her Electronic Benefit Transfer (EBT) card on different days. MDHHS explained that in addition to Petitioner's monthly benefit amount, she was also receiving a supplemental payment based on COVID-19 policies and MDHHS does not have control over which day the supplemental payment will be available on recipients' EBT cards.

On July 13, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits at a rate of \$20.00 per month for a household of one, beginning July 1, 2022 (Exhibit A, p. 19). However, due to the COVID-19 Public Health Emergency, the federal government authorized the State of Michigan to issue Emergency Allotments (EA) to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size will receive a supplement to bring their benefit amount to the maximum amount. ESA Memo 2022-22 (January 2022). If the supplement does not equal or exceed \$95.00, the group will receive additional benefits up to \$95.00, even if this causes them to exceed the maximum benefit amount for the group size. *Id.* While the EA are in effect, Petitioner's FAP benefit amount is the maximum for a household size of one, which was \$250.00 per month as of October 1, 2021. *Id.*; RFT 260 (October 2021), p. 1. When the EA are no longer in effect, Petitioner will receive her ongoing FAP benefit rate, which MDHHS calculated to be \$20.00 per month.

To determine whether MDHHS properly calculated Petitioners' FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (July 2020), pp. 1-5. MDHHS budgeted [REDACTED] in unearned income for Petitioner based on Retirement, Survivors, Disability Insurance (RSDI) income that she receives. For RSDI, MDHHS is required to budget the gross benefit amount as unearned income. BEM 503 (April 2021), p. 29. Petitioner did not dispute this amount and there was no evidence of other income. Therefore, MDHHS properly determined that Petitioner's countable income for the purposes of FAP was [REDACTED]

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (January 2022), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size

- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (January 2022), p. 1; BEM 556 (October 2021), p. 3.

No evidence was presented that Petitioner had earned income, dependent care expenses, court-ordered child support or verified medical expenses. MDHHS budgeted the standard deduction for a household of one, which was \$177.00. RFT 255 (October 2021), p. 1. To calculate Petitioner's Adjusted Gross Income (AGI), the standard deduction of \$177.00 was subtracted from the countable income of \$ [REDACTED] which equals \$1,232.00.

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction of \$418.00, MDHHS testified that it considered Petitioner's verified housing expenses of \$475.00 and budgeted the heat and utility standard of \$559.00. BEM 554, pp. 14-15. MDHHS determined Petitioner's total shelter expense by adding together the verified housing expenses of \$475.00 and the heat/utility standard of \$559.00, which equaled \$1,034.00. To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or \$616.00, from Petitioner's total shelter amount of \$1,034.00 equals \$418.00. Therefore, MDHHS determined that Petitioner's excess shelter deduction was \$418.00.

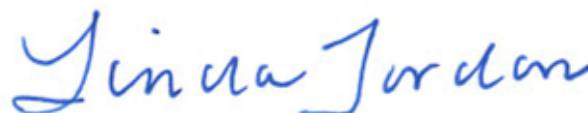
At the hearing, Petitioner testified that she had submitted a change report to MDHHS on August 11, 2022 because she had recently moved. MDHHS stated that the change was pending verification of the expense from Petitioner. Because Petitioner submitted the change report on the same day that she submitted the Request for Hearing, and MDHHS has not yet processed the change, that issue is not ripe for review and is beyond the scope of this Hearing Decision.

To determine Petitioner's net income for FAP, MDHHS subtracted the excess shelter deduction of \$418.00 from Petitioner's AGI of \$1,232.00, which equals \$814.00. A household of one with a net income of [REDACTED] is entitled to receive \$20.00 per month in FAP benefits. RFT 260 (October 2021), p. 12.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS acted in accordance with Department policy when it determined Petitioner's FAP benefit rate.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED**.



---

**Linda Jordan**  
Administrative Law Judge

LJ/tm

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via-Electronic Mail :**

**DHHS**

Yaita Turner  
Oakland County Pontiac-Woodward  
Dist.  
51111 Woodward Ave 5th Floor  
Pontiac, MI 48342  
**MDHHS-Oakland-District-IV-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
BSC4  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]